

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

MEMORANDUM & ORDER
93-CR-1046 (JS)

-against-

MOORTHY S. RAM,

Defendant.

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APPEARANCES:

For the Government: Bonni Jessica Perlin, Esq.
United States Attorney's Office
Eastern District Of New York
271 Cadman Plaza East
Brooklyn, NY 11201

For the Defendant: Moorthy S. Ram, pro se
43865-053
Morgantown Federal Correctional Institution
P.O. BOX 1000
Morgantown, WV 26507

SEYBERT, District Judge:

Defendant Moorthy S. Ram ("Defendant") petitions this Court for (1) an order deferring his remaining fine until his release from prison and (2) assistance in obtaining a reduction of his sentence in an unrelated case in the Eastern District of Virginia. (Docket Entries 141, 145.) Both requests are DENIED.

DISCUSSION

In 1994, Defendant was convicted of mail fraud, arson, and witness tampering. He was sentenced to eighty-four months in prison and fined \$25,000, the payment of which was due immediately. Defendant was released from prison but was later

convicted of bank fraud in the Eastern District of Virginia and sentenced to another eighty-seven months in prison. Defendant was ordered to pay \$87,742.16 in restitution in the Virginia case. He is currently incarcerated at the federal facility in Morgantown, West Virginia. Defendant participates in the Bureau of Prisons' Inmate Financial Responsibility Program, whereby he pays \$75 per month toward the outstanding amount of the fine (the court in the bank fraud case agreed to defer his restitution payments until after Defendant's release).

Defendant seeks an order deferring the due date of the outstanding portion of his fine until his release, and he requests that this Court confer with the sentencing court in the Eastern District of Virginia to ask that Defendant's bank fraud sentence be reduced. The Court rejects both requests. Under Section 3572 of Title 18 of the United States Code, the Court has leeway to set a payment schedule at the time it imposes a fine. When it requires the fine to be paid immediately, however, it lacks the authority to modify the terms of the fine after the time limitations of the Federal Rules of Criminal Procedure have expired. United States v. Akinrosotu, 637 F.3d 165, 167-68 (2d Cir. 2011); United States v. Kercado, No. 91-CR-0685, 2002 U.S. Dist. LEXIS 11164, at *4 (S.D.N.Y. June 24, 2002). Here, the Court ordered that the fine be due immediately and the time for amending the sentence under the rules has

expired. Accordingly, the Court may not defer the balance of Defendant's fine. As to the bank fraud sentence, the Court construes Defendant's request as one under Section 3582 of Title 18 of the United States Code to modify his term of imprisonment. Among other things, Section 3582 provides that the Court may modify a term of imprisonment upon motion of the Bureau of Prisons or in cases where a defendant has been sentenced based on a sentencing range that has since been lowered by the United States Sentencing Commission. 18 U.S.C. § 3582(c). Defendant has not alleged any factors that would make Section 3582 applicable and the time for him to move for a reduced sentence under Rule 35 has expired. Accordingly, Defendant's request that the Court recommend to the Eastern District of Virginia that Defendant's sentence be reduced is denied.

CONCLUSION

For the foregoing reasons, Defendant's motions (Docket Entries 141, 145) are DENIED. The Clerk of the Court is directed to mail Defendant a copy of this Order.

SO ORDERED

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

DATED: October 13, 2011
Central Islip, New York